

the mortgagee to give a purchaser a good legal title to the property. Without this provision, the equitable mortgagee cannot pass the legal estate to a purchaser, except under an Order of the Court.

If an equitable mortgage does not contain a clause giving power to the mortgagee to pass the legal estate, the mortgagee cannot take possession of the property or require that the rents be paid to him, without getting an Order of Court.

What happens when a mortgagor repays his mortgage? From the foregoing remarks about legal mortgages it will be gathered that some legal deed or document under seal is necessary to re-convey or re-assign the land to the mortgagor.

Prior to the Law of Property Act, 1925, this was always so. The borrower in his mortgage conveyed the legal estate to the mortgagee and the same had to be reconveyed back to the mortgagor when he paid off the loan. The new form of conveyancing simplifies this very much by providing that in place of a formal reconveyance or reassignment, a simple receipt in the form indicated in the Act shall apply. The Act provides that such receipt shall give the name of the person making the repayment.^x

This follows the lines set out in sect. 42 of the

Building Societies Act, 1874, which provides that a receipt for the mortgage money endorsed on the mortgage shall operate to vacate the mortgage and vest the estate in the person entitled to the equity of redemption (i.e. the borrower or his successors) without any reconveyance or reassignment.²

¹ Law of Property Act, 1925, sect. 115, and Third Schedule.

² And see sect. 53 (i) of Friendly Societies Act, 1896.